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C O N F I D E N T I A L SECTION 01 OF 02 LILONGWE 000366

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SENSITIVE

DEPT FOR AF/S - E. PELLETREAU

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TAGS: [PGOV](#) [KDEM](#) [MI](#)  
SUBJECT: MALAWI: NATIONAL ASSEMBLY SUSPENDED AS MEDIATORS  
PROPOSE COMPROMISE

REF: 07 LILONGWE 715

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Classified By: Acting DCM John Warner, Reason 1.4 d.

#### Summary

1. (C) On June 20, Speaker Louis Chimango suspended the National Assembly after the legislature failed to pass the national budget by President Mutharika's stated June 20 deadline. Coincidentally, the June 20 meeting was prevented by demonstrations that blocked opposition MPs from entering State House where Parliament meets. On June 23, President Mutharika echoed comments from his June 19 national address, saying that the legislature may resume sitting as early as "next week" if there is evidence that the National Assembly will deliberate and pass the budget. The suspension comes less than a week after a clergy mediation team proposed a compromise solution to all political parties that called for the passing of the national budget and the implementation of the floor-crossing related Section 65 of the Constitution in small, linked actions. While some believe the suspension of the National Assembly will give the parties time to formalize the proposed compromise solution, confrontational public statements by both Mutharika and former president Muluzi diminish hopes of a negotiated solution. End summary.

#### National Assembly Suspended

2. (U) One day after President Mutharika's June 19 national address reiterated a June 20 deadline for passage of the national budget, Speaker Louis Chimango suspended the National Assembly until an undetermined date. The final scheduled meeting of the session, was stopped by demonstrations outside the State House, where the National Assembly meets. While no one was injured in the demonstrations, the protesters blocked opposition legislators from entering the grounds, effectively preventing the meeting. In both his June 19 address and in public comments on June 23, President Mutharika maintained that the legislature may resume sitting as early as "next week" if there is evidence that the National Assembly will deliberate and pass the national budget.

#### Mediators Propose a "Package Deal"

3. (C) The suspension comes less than one week after a clergy mediation team proposed a compromise solution to both government and opposition members of Parliament. The compromise solution, which has not been publicly released, called for dividing up budget approval and implementation of

the floor-crossing related Section 65 of the Constitution into small, linked actions. The mediators, who came from Catholic, Protestant, and Muslim faiths, emphasized that any solution must be both legal, and facilitate simultaneous passage of the budget and implementation of Section 65, with both sides agreeing to the plan in its entirety. The mediators further suggested a nine-day timeline with verifiable actions relating to both sides' goals on each day to ensure progress.

#### Two Outcome Scenarios

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¶4. (C) The mediators went beyond proposing a solution to describe post-event scenarios and possible effects on each side. After consulting with legal experts, the clergy mediators put forward three assumptions.

¶A. Any MP affected by Section 65 whose seat is declared vacant, could seek an injunction that would halt implementation.

¶B. Court cases related to Section 65 injunctions would not be resolved by the courts before the National Assembly dissolved in March 2009.

¶C. Vacant seats would not be able to be filled through by-elections given the imminence of May 2009 Parliament elections.

Based on these assumptions, mediators saw two likely scenarios after implementation of the deal: 1) adjournment with government scheduling an additional sitting prior to the 2009 elections and 2) adjournment until after May 2009 elections.

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¶5. (C) The mediators believed scenario one - scheduling an additional sitting - offered the government the advantages of passing election-related bills, as well as development bills that could enhance its image in the eyes of the electorate. At the same time, mediators believed this scenario would allow the opposition to undertake a mid-term review of the budget, preventing emergence of budget lines that could be used for campaign purposes.

¶6. (C) Mediators believed scenario two - adjourning until after the elections - would allow the government to deliver essential services including fertilizer subsidies without impediment, improving its chances in forthcoming elections. This scenario would also put to rest any discussion of possible impeachment of Mutharika by the National Assembly, while allowing the opposition to achieve its political goal of implementing Section 65 and demonstrating a commitment to upholding the Constitution.

#### Mutharika, Muluzi Still Confrontational

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¶7. (SBU) While some hope that the current suspension will give the parties time to discuss implementation of the mediators' compromise solution, both Mutharika and former president Muluzi continue to make confrontational public comments. At a groundbreaking ceremony for a new road on June 23, Mutharika said that if the National Assembly did not pass the budget by July 1, he would stop the salary payments of opposition members of Parliament. Mutharika added that the opposition just wanted to drag the budget process out for five months so they could draw larger allowances and he would not accept that. On the same day, Muluzi promised supporters in Blantyre that he would "fight and finish (Mutharika) at the polls" and that he would not let Mutharika go "scot-free" for abusing the United Democratic Front and dumping the party that ushered him to power.

Comment

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18. (C) The threat of withholding allowances in July if the budget is not passed does not appear to be legal and will not move the opposition to action. If anything, the threat may delay implementation of any compromise as opposition would have a new example of the unconstitutional behavior of Mutharika to take to the public. Still, the suspension of the National Assembly, and Mutharika's follow-on statements that the National Assembly could reconvene as early as "next week" leave more room for both sides to negotiate than last September's prorogation (reftel), but it seems clear that for the compromise solution to be successfully implemented, Mutharika and Muluzi must still be convinced the solution is better than the status quo.

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